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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/105,840 | 06/26/1998 | DAVID BILL | TDS-001 | 6055 |

26171 7590 10/02/2003

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

EXAMINER

PHAN, MAN U

| ART UNIT | PAPER NUMBER |
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2665

DATE MAILED: 10/02/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/105,840

Applicant(s)

Bill

Examiner

Man Phan

Art Unit

2665



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Jul 3, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The proposed amendment on the claims have raised a new issue, and would require further search and/or consideration.

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☒ Newly proposed or amended claim(s), 35-38, 40-45, 50, 54-56, 58-64, 67, would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached pages

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-3, 6-9, 12-15, and 18-92

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other: _____

Advisory Action

1. The affidavit, exhibit or request for reconsideration has been considered but does not place the application in condition for allowance because:

Applicant's arguments are not persuasive. It's the examiner's position that Chaddha (US#6,345,293) and Reed et al. (US#6,041,239) applied herein merely for the teaching of distributing of message communication system for facilitating communications between a network distribution device and a large numbers of recipients. Chaddha (US#6,345,293) discloses a distribution of customized multimedia content over a network, enabling personalized multimedia content targeted at specific end users. Chaddha teaches in Fig. 5 illustrated a cost effective bandwidth selection for transmitting scalable multimedia content to the end user which corresponds to the likelihood of patronage (*responsive to a predict interest by an individual recipient - step 530*). The end user factors (*including regularity of patronage at the business, customer's income history, credit worthiness, age, hobbies, occupation and marital status - step 520*) are used to select an appropriate transmission bandwidth (step 540). Such an arrangement is advantageous because the personalized content (*predicted interest by an individual recipient*) is targeted at end user who have a higher probability of interest in the personalized content based on the personal profile (Col. 7, lines 10 plus and the abstract; Figs. 2-4). Furthermore, Reed et al. (US#6,041,239) teach the step of determining the offered load in Erlangs (one Erlang is equal to one full hour of phone use or conversation per hour of clocktime or 1 call minute per minute) for that subregion (*determining the*

score to the content element). These offered loads are then used to assign base station transceivers within each subregion (*the score is used for distributing an offered load over a wireless communications systems service area*) (Col. 1, lines 35 plus). Reed further teach in Fig. 6 depicted a logic flowchart that illustrates the method of calculating and locating an *offered load* according to the method and system of the present invention, in which a road density *factor for each tile* in the service area (*score for the content element in a pool*) is calculated using the transportation database, as illustrated at block 208. Such road *density factors* are proportional to the capacity of the portions of roads included in each tile. The road *density factor* may be calculated by determining the highest capacity transportation artery in the tile and looking up an associated appropriate road density factor (Col. 4, lines 53 plus). Examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action. The final rejection mailed on June 19, 2002 is therefore maintained.

Mphan.

09/29/2003



STEVEN H. D NGUYEN
PRIMARY EXAMINER